

## PATENT COOPERATION TREATY

PCT

## INTERNATIONAL PRELIMINARY EXAMINATION REPORT

REC'D 15 MAR 2003

WPO PCT

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference 116057	FOR FURTHER ACTION	See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416).
International Application No. PCT/AU2003/001475	International Filing Date (day/month/year) 7 November 2003	Priority Date (day/month/year) 7 November 2002
International Patent Classification (IPC) or national classification and IPC Int. CL <sup>7</sup> A61F 11/04, A61N 1/36, H04R 25/00		
Applicant COCHLEAR LIMITED et al		

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.
2. This REPORT consists of a total of 4 sheets, including this cover sheet.
 

This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

These annexes consist of a total of sheets(s).

3. This report contains indications relating to the following items:

- I  Basis of the report
- II  Priority
- III  Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- IV  Lack of unity of invention
- V  Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- VI  Certain documents cited
- VII  Certain defects in the international application
- VIII  Certain observations on the international application

Date of submission of the demand 17 February 2003	Date of completion of the report 7 March 2003
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International application No.

PCT/AU2003/001475

## 1 Basis of the report

\* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70, 16 and 70.17).

<sup>\*\*</sup> Any replacement sheet containing such amendments must be referred to under item I and annexed to this report.

\*\*\* Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report

## INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

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V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

## 1. Statement

Novelty (N)	Claims 3-14,16-34,37-44,46-61,67-69,80-83	YES
	Claims 1,2,15,35,36,45,62-66,70-79	NO
Inventive step (IS)	Claims 9,10-12,43,50,51,52,54,67,68,80,81,83	YES
	Claims 1-8,13-42,44-49,53,55-66,69-79,82	NO
Industrial applicability (IA)	Claims 1-83	YES
	Claims	NO

## 2. Citations and explanations (Rule 70.7)

## Novelty

D1: US 5,609,616 A (Schuhman et al) 11 March 1997

D1 discloses a physician's testing method for testing implantable cochlear stimulators including 2 processors with an interface to transmit and receive test signals to an implantable cochlear stimulator. The citation further discloses a visual display and a printer connected to the test device.

That the recipient can partially control the tests is not reflected in any particular feature in the claims and can be as little as starting or ending the test as in Claim 30 and while the applicant may argue on the grounds of novelty as not being disclosed in the citation it would nonetheless not involve an inventive step.

Claims 1,2,15,35,36,45,62-66,70-79 are not novel in light of Schuhman et al.

## Inventive Step

D2: EP 0 124 930 B1 (The Commonwealth of Australia) 20 June 1990

D2 discloses a cochlear implant system for an auditory prosthesis and in which on page 9 lines 30-49 it is disclosed how a recipient of the implant may determine threshold stimulus levels by adjusting a knob and thus disclosing the recipient at least partially control the tests.

Claims 1-8,13-42,44-50,53,55-66,69-79,82,83 do not involve an inventive step in light of D1 when read together with D2.

Claims 3,6,7, 16,17,20,37,40,41,46 and 47 merely define the location of the test module and do not involve an inventive step over the prior art.

Claims 4,5,8,13,14,18,19,21,38,39,42,44,48,49,69 and 82 define the display, storage or transmission of test data by well known means and do not involve an inventive step over the prior art.

Claims 28,32,56 and 60 define a graphical interface which is disclosed in D2.

Claims 22-24 and 26 define the interaction between the two processors which is disclosed in both D1 and D2.

Claims 27,29 and 30 define the recipient interaction with the test as disclosed in D2.

Claims 25 and 53 merely define the first computer as a dumb terminal with no further features.

see continuation of V in Supplemental Box

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Supplemental Box

(To be used when the space in any of the preceding boxes is not sufficient)

Continuation of Box V

Claim 31 and 59 defines the test set-up by the clinician as disclosed in both D1 and D2.

Claim 33 defines the interface as a generic port as disclosed in D1 and D2.

Claim 34 and 61 defines an input device for entering control instructions as disclosed in D2.

Claims 55,57, and 58 define the recipient control of tests as disclosed in D2.